

Immigration Violations

167.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines to members of the Cook County Sheriff's Office for investigating and complying with immigration laws.

167.1.1 ISSUANCE/EFFECTIVE DATE

This policy was re-issued on Dec. 31, 2018 and shall become effective on Jan. 1, 2019 at 0001 hours (statutory/operational updates).

167.2 POLICY

It is the policy of the Cook County Sheriff's Office that all members make personal and professional commitments to equal enforcement of the law and equal service to the public. Confidence in this commitment will increase the effectiveness of the Sheriff's Office in protecting and serving the entire community and recognizing the dignity of all persons, regardless of their immigration status.

It is the intention of this policy to be in-line with federal law and the limitations set forth in Cook County Ordinance 11-O-73 (Cook County Code of Ordinances § 46-37), Cook County Resolution 07-R-240 and Ill. Public Act 100-0463.

167.3 VICTIMS AND WITNESSES

To encourage crime reporting and cooperation in the investigation of criminal activity, all individuals, regardless of their immigration status, must feel secure that contacting or being addressed by members of the Sheriff's Office should not automatically lead to an immigration inquiry and/ or deportation. While it may be necessary to determine the identity of a victim or witness, sworn members shall treat all individuals equally and without regard to race, color or national origin in any way that would violate the United States or Illinois Constitutions.

167.4 ENFORCEMENT

A sworn member may not hold an individual under this section based solely on an ICE detainer or non-judicial immigration warrant. A sworn member should not detain any individual, for any length of time, for a civil violation of federal immigration laws or a related civil warrant.

167.4.1 CIVIL VS. CRIMINAL FEDERAL OFFENSES

An individual who enters into the United States illegally has committed a misdemeanor (8 USC § 1325(a)). Generally, an individual who initially made a legal entry into the United States but has remained beyond what is a legal period of time has committed a federal civil offense.

167.5 ARREST NOTIFICATION TO IMMIGRATION AND CUSTOMS ENFORCEMENT

A sworn member will not notify ICE when booking arrestees at the county jail. Notification will be handled according to jail operation procedures and any questions shall be directed to the Immigration and Consulate Liaison. No individual who is otherwise ready to be released should

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continue to be detained solely for the purpose of notification and/or based solely on the existence of an ICE detainer or non-judicial immigration warrant.

167.6 ICE REQUEST FOR ASSISTANCE

- (a) Members shall decline ICE detainers and non-judicial immigration warrants unless there is a known written agreement with the federal government that has been approved by the Cook County Board of Commissioners by which all costs incurred by Cook County in complying with the ICE detainer shall be reimbursed.
- (b) ICE agents shall not be given access to individuals in the custody of the Sheriff's Office or allowed to use County facilities for investigative interviews or other purposes.
- (c) County personnel shall not expend their time responding to ICE inquiries or communicating with ICE regarding individuals' incarceration status or release dates while on duty, unless any of the following conditions are present:
 - 1. ICE agents have a criminal warrant;
 - 2. Sworn members have a legitimate law enforcement purpose that is not related to the enforcement of immigration laws; or
 - 3. Unless otherwise provided for by law including the Sheriff's Office obligatory compliance with the Freedom of Information Act and/or lawful court order or subpoena.
- (d) There shall be no expenditure of any Sheriff's Office resources or effort by on-duty members to comply with an ICE detainer or non-judicial immigration warrant, to respond to ICE inquiries or communicate with ICE regarding individuals' incarceration status or release dates while on duty, except as expressly provided within this section.
- (e) Requests by federal immigration officials for assistance from this department should be directed to the respective department head or the authorized designee and the Immigration and Consulate Liaison. The respective department head or the authorized designee is responsible for determining whether the requested assistance would be permitted under Cook County Code of Ordinances § 46- 37.

167.7 INFORMATION SHARING

Based upon the language contained in Cook County Ordinance 11-O-73 (Cook County Code of Ordinances § 46-37) and Cook County Resolution 07-R-240, which precludes acceptance of ICE detainers, members shall not disclose information regarding the citizenship or immigration status of any person unless required to do so by law or authorized or by the individual to whom such information pertains (8 USC § 1373).

Nothing in this policy restricts sharing information that is permissible under Cook County Code of Ordinances § 46-37.

167.7.1 IMMIGRATION HOLDS

No individual should be held based solely on a federal immigration detainer under 8 CFR 287.7 or any other hold request unless the person has been charged with a federal crime or the detainer is

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accompanied by a judicial warrant. Notification to the federal authority issuing the detainer should be made prior to the release (Ill. Public Act 100-0463).

167.8 U VISA AND T VISA NON-IMMIGRANT STATUS

Under certain circumstances, federal law allows temporary immigration benefits, known as a U visa, to victims and witnesses of certain qualifying crimes (8 USC § 1101(a)(15)(U)). A law enforcement certification for a U visa may be completed by the authorized sworn member, the Immigration and Consulate Liaison and/or the Sheriff's Legal Department authorized designee in order for a U visa to be issued.

Similar immigration protection, known as a T visa, is available for certain qualifying victims of human trafficking (8 USC § 1101(a)(15)(T)). A law enforcement declaration for a T visa may be completed by the authorized sworn member, the Immigration and Consulate Liaison and/or the Sheriff's Legal Department authorized designee in order for a T visa to be issued (5 ILCS 825/10).

Any request for assistance in applying for U visa or T visa status should be forwarded in a timely manner to the Sheriff's Legal Department authorized designee assigned to oversee the handling of U visa certification requests. The Sheriff's Legal Department authorized designee shall:

- (a) Consult with Sheriff's Police Department to determine the current status of any related case and whether further documentation is warranted.
- (b) Contact the appropriate prosecutor assigned to the case, if applicable, to ensure the certification or declaration has not already been completed and whether a certification or declaration is warranted.
- (c) Address the request and complete the certification or declaration, if appropriate, in a timely manner.
 1. The instructions for completing certification and declaration forms can be found on the U.S. Department of Homeland Security (DHS) website.
 2. The certification form should be completed within 90 business days of the request unless (5 ILCS 825/10):
 - (a) There is a written agreement with the victim or the victim's representative extending the time to complete the certification form.
 - (b) The victim is eligible for expedited completion of the certification form.
 3. Complete and reissue a certification form within 90 days of a request to reissue by a victim unless the circumstances of the victim require that the completion and reissuance of the certification form be expedited (5 ILCS 825/10).
- (d) Provide written notice to the victim or the victim's representative if it cannot be determined based on the evidence that the victim is qualified for a U visa or T visa (5 ILCS 825/10).
- (e) Ensure that any decision to complete or not complete a certification or declaration form is documented in the case file and forwarded to the appropriate prosecutor. Include a copy of any completed form in the case file. The Immigration and Consulate Liaison shall also be provided with a copy of the form.

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167.8.1 NON-DISCLOSURE OF IMMIGRATION STATUS

No member shall disclose the immigration status of the victim or the person requesting the certification form unless authorized in writing by the individual or as required by law (5 ILCS 825/10).

167.8.2 PUBLICATION OF CERTIFICATION FORM PROCESS

The Immigration and Consulate Liaison should make the Sheriff's Office procedures for certification requests publicly available for victims and their representatives (5 ILCS 825/10).

167.9 TRAINING

The Training Academy shall ensure that all appropriate members receive immigration training.